

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

EVAN WEINER and TIMOTHY  
McCLAUSLAND, on behalf of themselves and  
all others similarly situated,

Plaintiffs,

v.

SNAPPLE BEVERAGE CORPORATION,

Defendant.

Civil Action No.: 1:07-cv-08742

**CONSENT ORDER TO STAY ACTION**

WHEREAS, this matter comes before the Court on the joint application of Plaintiffs Evan Weiner and Timothy McClausland and Defendant Snapple Beverage Corporation ("Snapple"), through their undersigned counsel, for an order granting a stay of this action until a final, non-appealable decision is rendered on Snapple's motion to dismiss filed in a substantially similar action in the District of New Jersey entitled *Holk v. Snapple Beverage Corporation*, Civil Action No. 3:07-cv-03018-MLC-JJH; and

WHEREAS, *Holk* was originally filed in New Jersey State Court on or about May 18, 2007, and was subsequently removed to the District of New Jersey on or about June 29, 2007; and

WHEREAS, Snapple filed a motion to dismiss in *Holk* on October 18, 2007, and briefing is now complete and the parties are awaiting a date for oral argument; and

WHEREAS, the initial complaint in this action was filed on October 10, 2007, followed by a motion to dismiss challenging the complaint filed on November 6, 2007; and

WHEREAS, the First Amended Class Action Complaint was filed on November 20, 2007; and

WHEREAS, the allegations and legal issues involved in *Holk* substantially overlap with those here such that a stay of this action until a final, non-appealable decision is issued on the motion to dismiss in *Holk* is in the best interest of judicial economy;

NOW THEREFORE, upon consent of the parties and for good cause shown,

IT IS on this 7 day of December, 2007;

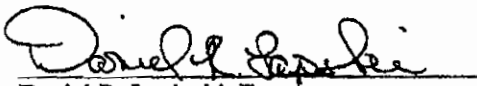
ORDERED that no later than twenty (20) days after a final, non-appealable decision is issued on Snapple's motion to dismiss in *Holk*, Snapple shall advise this Court of the decision and file an answer or otherwise respond to Plaintiffs' First Amended Class Action Complaint; and

IT IS FURTHER ORDERED that a copy of this Order shall be served on all counsel of record within five (5) days of receipt, unless electronically served by the Court.

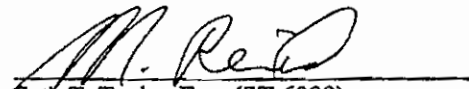
*It is further ordered that a status letter is due 3/28/08.*

  
THE HONORABLE DENISE COTE, U.S.D.J.

The undersigned consent to the form and entry of the above Order:

  
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Dated: December 5, 2007